

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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_____AD3d_____

Submitted - May 1, 2008

ROBERT A. LIFSON, J.P.
HOWARD MILLER
MARK C. DILLON
RANDALL T. ENG, JJ.

2007-02442

DECISION & ORDER

In the Matter of Edwin J. Perez, respondent, v
Wendy Y. Martinez, appellant.

(Docket No. V-1668-06)

Darren M. Shapiro, Melville, N.Y., for appellant.

Henry Lung, Mineola, N.Y., for respondent.

In a child custody proceeding pursuant to article 6 of the Family Court Act, the mother appeals from an order of the Family Court, Suffolk County (Kelly, J.), dated February 16, 2007, which, after a hearing, granted the petition and awarded sole legal and residential custody to the father.

ORDERED that the order is affirmed, without costs or disbursements.

In adjudicating custody issues, the paramount concern is the best interests of the child (*see Eschbach v Eschbach*, 56 NY2d 167, 171; *Friederwitzer v Friederwitzer*, 55 NY2d 89, 94). The Family Court's determination in a custody dispute is generally accorded great deference on appeal and should not be disturbed unless it lacks a sound and substantial basis in the record, as it is based upon a first-hand assessment of the parties, their credibility, character, and temperament (*see Eschbach v Eschbach*, 56 NY2d at 173; *Matter of Panetta v Ruddy*, 18 AD3d 662).

Contrary to the mother's contentions, the Family Court properly considered the totality of the circumstances in determining that the best interests of the child would be served by awarding custody to the father, with liberal visitation granted to her (*see Eschbach v Eschbach*, 56 NY2d at

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174; *Friederwitzer v Friederwitzer*, 55 NY2d at 93-95; *Matter of Garcia v Perez*, 48 AD3d 812; *Vinciguerra v Vinciguerra*, 294 AD2d 565, 566). That determination is supported by the record, including the testimony of the parties. Since the Family Court's determination has a sound and substantial basis in the record, it will not be disturbed (*see Matter of Garcia v Perez*, 48 AD3d 812; *Matter of Perez v Montanez*, 31 AD3d 565).

The mother's remaining contentions are without merit.

LIFSON, J.P., MILLER, DILLON and ENG, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court